SUBCOMMITTEE NO. 3 Agenda
Health, Human Services, Labor & Veteran's Affairs

Chair, Senator Elaine K. Alquist

Senator Alex Padilla
Senator Mark Wyland

April 14, 2008

10:30 AM

Room 2040
(Rose Ann Vuich Hearing Room)

AGENDA "A"

(Diane Van Maren)

Item	Department
4265	**Department of Public Health—*Office of AIDS***
4260	**Department of Health Care Services—*HIV/AIDS Pilot Project***
4440	**Department of Mental Health—*AIDS Counseling***

PLEASE NOTE: Only those items contained in this agenda will be discussed at this hearing. *Please* see the Senate File for dates and times of subsequent hearings.

Issues will be discussed in the order as noted in the Agenda unless otherwise directed by the Chair. Thank you.

I. Department of Public Health—Office of AIDS (Background through Page 5)

A. Background on the Office of AIDS & Summary of Funding. The Office of AIDS within the Department of Public Health is the state's lead entity responsible for coordinating state programs, services and activities relating to HIV and AIDS. The mission of the Office of AIDS is to: **(1)** Assess, prevent and interrupt the transmission of HIV and provide for infected Californians by identifying the scope and extent of HIV infection needs and the needs which it creates, and disseminating timely and complete information; **(2)** Assure high-quality preventive, early intervention, and care services that are appropriate, accessible, and cost effective; and **(3)** Provide leadership through a collaborative process of policy and program development, implementation and evaluation.

B. Governor's Proposed Reductions to HIV/AIDS Programs—Totals $11 million. The Governor proposes a total reduction of $11 million (General Fund) to programs administered by the Office of AIDS. This reduction would be achieved by reducing $10.622 million (General Fund) from local assistance for various programs as detailed in the table below, and $400,000 (General Fund) from state support within the Office of AIDS.

Governor's Proposed Reductions to Office of AIDS

	Governor's General Fund Reduction 2008-09	Total Proposed Funding 2008-09
1. HIV/AIDS Education and Prevention	-$1,600,000	$30,412,000 Total ($23,278,000 GF)
2. Epidemiologic Studies and Surveillance	-$400,000	$10,235,000 Total ($8,651,000 GF)
3. Early Intervention	-$200,000	$14,382,000 Total ($7,433,000 GF)
4. Therapeutic Monitoring Program	-$300,000	$3,700,000 Total ($3,700,000 GF)
5. Home and Community-Based Care	-$400,000	$11,869,000 Total ($6,327,000 GF)
6. AIDS Drug Assistance Program (ADAP)	-$7,000,000	$279,959,000 Total ($100,649,000 GF)
7. HIV Counseling and Testing	-$600,000	$9,860,000 Total ($8,225,000 GF)
8. AIDS Housing	-$122,000	$4,805,000 Total ($1,093,000 GF)
9. CARE/Health Insurance Premium	--	$1,700,000 Total
10. Care Services (Consortia)	--	$14,250,000 Total
11. Planning and Technical Assistance	--	$2,122,000 Total
Local Assistance Reduction	**-$10,622,000**	**$383,294,000 Total ($159,356,000 GF)**
State Support Reduction	**-$400,000**	$20,983,000 Total ($6,492,000 GF)
TOTALS	**-$11,022,000**	**$404,277,000 Total ($165,848,000 GF)**

Generally, the Office of AIDS states that the overall $11.022 million General Fund reduction corresponds to an overall 10 percent reduction as directed by the Governor. The AIDS Drug Assistance Program (ADAP) comprises about 63 percent of the reduction amount because it represents that portion of the total General Fund budget within the Office of AIDS.

All of the Governor's proposed reductions are discussed further below.

C. Background—Federal Ryan White Grant Funds. Programs operated by the state Office of AIDS are funded with a blending of federal funds, state General Fund, and drug rebate funds.

Most of the federal funds to support the Office of AIDS programs and activities are received from the federal Ryan White HIV/AIDS Treatment Act (federal Ryan White). Federal Ryan White funds operate as a *grant* to states (Part B), with other grant funds being provided directly to certain cities (Part A).

The state's federal grant funds (i.e., non-entitlement) are primarily used for the AIDS Drug Assistance Program, as well as various education and prevention efforts, including early intervention services.

The table below displays the state's portion of the federal Ryan White grant funds, as well as the amount used to support the AIDS Drug Assistance Program (ADAP). As noted in the table, the federal government has not been providing for any growth in the program.

State Fiscal Year	Ryan White Grant Amount For State	AIDS Drug Assistance Portion of These Funds
2006-07	$122,770,000	$98,639,573
2007-08	$122,745,000	$89,623,287
2008-09	$122,406,000	$89,623,287

The federal government also directly provides federal Ryan White grant funds to local health jurisdictions and to county and community clinics based upon various criteria.

In the current year a total of $95 million (federal funds) is allocated directly to these various entities for their expenditure.

D. Background-- Federal Maintenance of Effort to Receive Ryan White Grant Funds.

Under federal Ryan White, California as well as other states are required to maintain state expenditures for HIV-related activities at a level equal to, or exceeding, the one-year period preceding the fiscal year for which the state (as the grantee) is applying to receive a grant. This is referred to as the federal Maintenance of Effort (MOE) requirement.

The federal MOE requirement is based on HIV-related expenditures for all California state agencies and departments and is not specific to just the Office of AIDS expenditures. The Office of AIDS states that the federal MOE requirement is a "point-in-time" state General Fund expenditure report which is due with the submission of the federal Ryan White grant application—usually done in December of each year.

As such, the Office of AIDS states that when they apply for a federal Ryan White grant in 2007-08 which is to be expended during the state fiscal year 2008-09, the federal MOE report used "point-in-time" expenditures from state fiscal year 2006-07. Therefore, the Office of AIDS states that the Governor's proposed 2008-09 reductions would be reflected in the MOE report that would affect federal Ryan White grant funds awarded to California for expenditure in state fiscal year 2010-2011.

The Office of AIDS notes that federal MOE compliance is based on *expenditure information*, and not budgeted or proposed dollars. *Therefore, the Administration contends it is not possible to know the exact MOE impact of a proposed budget. However, the Administration estimates federal MOE compliance based on certain factors and assumptions, which are updated at the Governor's May Revision.*

The Administration's factors and assumptions included in estimating the federal MOE for Ryan White are shown in the table below.

Office of AIDS—Federal MOE Compliance for Ryan White Considerations

Description of Factors	Description of Assumptions
• MOE balance (expenditure data) from the previous year's MOE report contained in the federal Ryan White grant application.	• Anticipated program expenditures from current year.
• MOE balance (expenditure data) from the current year's MOE report for the grant application.	• Proposed funding reductions to specific programs (variable assumptions).
• Budgeted dollars for current year (all departments) from the AIDS Chart released with the Budget Act (July).	• Anticipated program expenditures for budget year.
• Proposed budget for budget year (all departments) from the AIDS Chart released with the Governor's January proposed budget.	

States must submit an assurance signed *by the Governor* (or designee) that **(1)** testifies the federal MOE has been maintained; **(2)** provides a description of a consistent data set of local government expenditures; **(3)** provides methodologies for calculating federal MOE expenditures; and **(4)** provides assurance that federal MOE expenditures do *not* include *drug rebates*, volunteer services, donations, or *expenditures of a non-recurring nature*.

HIV-related expenditures from the following agencies and departments are included in the federal MOE report which California submits to receive the federal Ryan White grant funds. (See table attached to this Agenda for more detail. This table is also available from the Office of AIDS or the Department of Finance.)

- Office of AIDS within the Department of Public Health
- Department of Health Care Services (Medi-Cal Program)
- Department of Corrections & Rehabilitation (Adult Health Care &Juvenile Facilities)
- Department of Mental Health (AIDS Counseling)
- Department of Social Services (Perinatal Substance Abuse/HIV Infants)
- Department of Education
- University of CA (CA HIV/AIDS Research Program)

E. Federal MOE Requirement for Current Year and Budget Year. As noted above, the Administration contends it is not possible to know the *exact* MOE impact of a proposed budget. However, the Office of AIDS has informed Subcommittee staff that the most recent federal MOE report submitted by California shows we spent *$495.1 million General Fund* in 2006-07; *therefore,* the Office of AIDS says that our federal MOE for 2007-08 (current year) must be at least this amount in order to meet the federal MOE requirement.

Further, the Office of AIDS states that for 2008-09, the federal MOE would be $495.1 million General Fund, assuming the state does not exceed the level of expenditures in 2007-08. Based on the Administration's proposed budget, including the Governor's proposed reductions, the Office of AIDS states that California should meet its federal MOE requirement. To achieve the federal MOE, California would need to spend about 95 percent of the total proposed 2008-09 General Fund expenditures by December 2009 (when the federal MOE report is submitted).

Subcommittee staff notes that a significant portion of California's federal MOE requirement pertains to expenditures for individuals with HIV-infection/AIDS enrolled in the Medi-Cal Program. Specifically, Medi-Cal expenditures comprise about $300 million, or *at least* 58 percent of the expenditures used to calculate California's federal MOE. As such, the Administration needs to closely monitor these expenditures to ensure that California will indeed meet its federal MOE requirement.

The Administration states that the federal MOE computation will be updated with the Governor's May Revision.

II. DISCUSSION ITEMS (By Issue Topic)

1. Office of AIDS—AIDS Drug Assistance Program—Several Issues (Through to Page 10)

Issues. The Administration's budget proposes total expenditures of $279.9 million ($100.6 million General Fund, $90.8 million Drug Rebate Funds, and $88.5 million federal Ryan White Funds) for the AIDS Drug Assistance Program (ADAP).

There are several issues regarding the AIDS Drug Assistance Program (ADAP). These include: (1) the Governor's reduction; (2) ADAP estimate methodology; and (3) AIDS Drug Rebate Funds. Each of these issues is outlined below.

A. Governor's $7 million General Fund Reduction. The budget reflects a net reduction of $7.5 million (total funds) from the current year. This net reduction consists of the Governor's cut of $7 million General Fund and almost $500,000 in less federal Ryan White grant funds. The Department of Finance asserts that the General Fund reduction is intended to be a permanent reduction in the ADAP base budget.

The Administration notes the $7 million General Fund reduction was simply an amount intended to meet the overall Office of AIDS reduction requirement of $11 million (General Fund). Since the ADAP represents about 63 percent of the General Fund within the Office of AIDS programs, it received that percentage of the overall reduction amount.

At the release of the Governor's budget in January, the Office of AIDS stated that to achieve the $7 million (General Fund) proposed reduction, they would need to reduce the ADAP formulary. Specifically, certain medication classes would be removed including wasting medications, hematological agents, anti-convulsants, and anti-psychotics. The Office of AIDS contended that these drug classes proposed for removal were thought to have the least impact on the overall care of ADAP clients.

Since this time, the Administration has consulted with the ADAP Medical Advisory Committee about classes and/or individual drugs to eliminate from the ADAP formulary if this reduction is done. Based on this discussion, the Administration now indicates it may not need to eliminate all of the targeted drug classes to achieve their proposed $7 million reduction. Alternatives may include stricter utilization controls for some drugs, removal of selected drugs within a class, and encouraging the appropriate use of less expensive drugs. The Office of AIDS expects to have a more specific plan in a few weeks and will present this information at the time of the Governor's May Revision.

It should be noted that any General Fund adjustments need to take into consideration funds available from the ADAP Drug Rebate Fund, discussed below, and funds available from the federal Ryan White grant funds (which generally have not grown even though the need has increased).

B. AIDS Drug Assistance Program Rebate Fund. In 2004, the Legislature adopted trailer bill legislation to create a special fund to capture all drug rebates associated with the ADAP formulary and program. The fund condition statement, as contained in the Governor's Budget summary, displays the following key aspects of this rebate fund:

• Beginning Balance from previous year (roll-over)	$68.4 million
• New ADAP Rebate Revenue (estimated for 2008-09)	$100.2 million
• Interest (estimated for 2008-09)	$3.6 million
TOTAL Resources Available	$172.2 million
• Office of AIDS estimated expenditures	($92.1 million)
• Remaining Reserve (estimated for 2008-09)	**$80.1 million**

As noted above, there is $80.1 million in ADAP Rebate Fund support that is presently in *reserve*. The Office of AIDS should explain to the Subcommittee the viability of these rebate reserve funds and why a portion of these funds are not being used to backfill for General Fund support (as long as the federal MOE requirement under the federal Ryan White grant funds would be met for General Fund expenditures).

The Office of AIDS states that a "prudent" level of reserve to offset any unforeseen economic uncertainties since they often project expenditures 15 months in advance is needed to coordinate with the state budget approval process. They note the reserve gives the program time to react to issues such as unforeseen increases in drug prices, new drug approvals, increases in the number of clients, increases in the number of prescriptions per client, changes in prescription practices, and costs associated with Medicare Part D where applicable.

The DOF also contends that ADAP Drug Rebate funds are intended for short term use only, and are not intended to sustain the program over long periods of time.

C. Need for Legislature to Receive ADAP Estimate Package. Last year, the Office of AIDS informed the Subcommittee they were implementing a new model of forecasting referred to as the "New Drug Cost Worksheet Model" for projecting ADAP expenditures. This new forecasting model, which is based on the federal Health Research Services Administration (HRSA) budgeting tool, was to be more accurate than past regression models that were previously used.

Specifically, this new model is to begin with the previous year's local assistance drug costs and identifies factors (or changes to the program) that are likely to have a fiscal impact. For each factor there is a corresponding increase or decrease to the budget.

Unfortunately, the Administration has not provided the Legislature or constituency groups with any details regarding this new model of forecasting, nor has the Administration even provided *any* standard budget package/estimate for the ADAP.

Instead, the Legislature and public have *only* been provided the budgeted dollar amounts with *no* assumptions or context as to what constitutes the logic behind the numbers. As such, appropriate public scrutiny and discussion cannot fully occur.

The ADAP is a core state program whose integrity is vital to the lives of 32,000 people living with HIV/AIDS. It is a complex program with multiple variables and three funding sources. For all of these reasons, consistent information regarding assumptions and data needs to be provided on ADAP.

Therefore, Subcommittee staff recommends adoption of trailer bill legislation to require the Office of AIDS within the Department of Public Health to provide the Legislature with an estimate package on January 10th and at the Governor's May Revision.

Background—ADAP Uses a Pharmacy Benefit Manager. The AIDS Drug Assistance Program was established in 1987 to help ensure that HIV-positive uninsured and under-insured individuals have access to drug therapies.

Beginning in 1997, California contracted with a pharmacy benefit manager (PBM) to centralize the purchase and distribution of drugs under ADAP. Presently, there are over 200 ADAP enrollment sites and over 3,300 pharmacies available to clients located throughout the state. Subcommittee staff notes that use of a state-wide PBM has been a successful endeavor and has been very cost-beneficial to the state (See University of AIDS Research Program analysis of 2004).

The state provides reimbursement for drug therapies listed on the ADAP formulary (over 180 drugs). The formulary includes anti-retrovirals, opportunistic infection drugs, hypolipidemics, anti-depressants, vaccines, analgesics, and oral generic antibiotics. Since the AIDS virus can quickly mutate in response to a single drug, medical protocol now calls for Highly Active Anti-retroviral Treatment (HAART) which minimally includes three different anti-viral drugs.

According to the Office of AIDS, ADAP served over 31,200 clients in 2006-07 and filled over 860,000 prescriptions for these clients (most recent actual data).

Background—How Does the AIDS Drug Assistance Program Serve Clients? ADAP is a subsidy program for low and moderate income persons with HIV/AIDS. Under the program, eligible individuals receive drug therapies through participating local pharmacies under subcontract with the statewide contractor (i.e., the pharmacy benefit manager).

Individuals are eligible for ADAP if they:

- Are a resident of California;
- Are HIV-infected;
- Are 18 years of age or older;
- Have an adjusted federal income that does not exceed $50,000;
- Have a valid prescription from a licensed CA physician; and
- Lack private insurance that covers the medications or do not qualify for no-cost Medi-Cal.

ADAP clients with incomes between $40,840 (400 percent of poverty) and $50,000 are charged monthly co-pays for their drug coverage. A typical client's co-payment obligation is calculated using the client's taxable income from a tax return. The client's co-payment is the lesser of (1) twice their annual state income tax liability, less funds expended by the person for health insurance premiums, or (2) the cost of the drugs.

Background—ADAP Drug Rebates (Federal and State Supplemental). Both federal and state law *require* ADAP drug manufacturer rebates to be paid in accordance with the same formula by which state Medicaid (Medi-Cal) programs are paid rebates. This formula is established by the federal CMS.

California also negotiates additional supplemental rebates under ADAP via a special national taskforce, along with eight other states. The mission of this taskforce is to secure additional rebates from eight manufacturers of anti-retroviral drugs (i.e., the most expensive and essential treatment therapies). The Office of AIDS has also begun to negotiate supplemental rebates on non-antiretroviral drugs.

Background—ADAP is the Payer of Last Resort. Both federal and state laws require that ADAP funds be used as the payer of last resort. As such, ADAP is used *only* after all other potential payer options are exhausted. This means that all Medicare eligible ADAP clients are required to utilize the prescription drug benefits available under the Medicare Part D Program. Persons eligible for private insurance coverage are required to access and utilize their prescription drug coverage.

Background—ADAP is Cost-Beneficial to the State. The ADAP is a core state program. Without ADAP assistance to obtain HIV/AIDS drugs, individuals would be forced to: (1) postpone treatment until disabled and Medi-Cal eligible, or (2) spend down their assets to qualify, increasing expenditures under Medi-Cal. According to the Administration, 50 percent of Medi-Cal costs are borne by the state, whereas only 30 percent of ADAP costs are borne by the state.

Studies consistently show that early intervention and treatment adherence with HIV/AIDS-related drugs prolongs life, minimizes related consequences of more serious illnesses, reduces more costly treatments, and increases an HIV-infected person's health and productivity.

Subcommittee Staff Comment and Recommendation. *First*, the Office of AIDS needs to provide the Subcommittee with its baseline assumptions of how the $279.9 million (total funds) was fully calculated.

Second, it is recommended to adopt placeholder trailer bill legislation for the Office of AIDS to provide the Legislature with a comprehensive ADAP estimate package that articulates key assumptions and factors on which the budget is based.

Third, it is simply not fiscally sound for the Administration to view the ADAP Drug Rebate Fund for short-term use. Both federal and state laws *require* drug manufacturers to provide a rebate based on the type of drug and volume invoiced. It is cost-beneficial for

both the public sector as well as the private sector to rely on the rebate system (drugs get placed on formularies and drug volume and availability increase). Further, the ADAP has been receiving drug rebate funds for the program since 1997.

Though ADAP Drug Rebate revenues can vary from year-to-year, revenues generated from the rebates have been consistent. This factor, coupled with several years of unexpended revenues from prior years (roll-over funds), has indeed left a very prudent reserve of $80.1 million. Clearly a modest portion of these funds could be utilized to backfill for General Fund support and offset the Governor's proposed $7 million General Fund reduction.

Due to the need for the Office of AIDS to update its January estimate for ADAP, it is recommended to defer full action on funding until the May Revision. (A portion of the ADAP may be restored contingent on action taken later in this Agenda.)

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions.

1. Office of AIDS, Please provide a *brief* description of the Aids Drug Assistance Program (ADAP) and the Governor's proposed reduction. Please describe the potential affect of this reduction.

2. Office of AIDS, Please speak to the $80 million reserve within the ADAP Drug Rebate special fund.

3. Office of AIDS, When will the budget methodology for how the ADAP total amount of $279.9 million ($100.6 million General Fund) was derived be forthcoming?

2. Office of AIDS—AIDS Drug Assistance Program—County Jails

Issue. The Senate Budget and Fiscal Review Committee convened last week and discussed the state and local government relationship, including mandated programs as well as discretionary programs in which the state provides assistance to local government.

As a nexus to this discussion, Subcommittee staff believes a discussion regarding the use of ADAP to provide drug assistance to individuals in County Jails would be informative.

According to the Office of AIDS, for fiscal year 2006-07, the state ADAP provided $5.5 million (General Fund) to counties by providing drugs to incarcerated individuals residing in County Jails. These state services have been provided at no cost to the County Jails.

The Office of AIDS notes that expenditures for County Jail inmates have increased from $3.3 million (General Fund) in 2004-05 to $5.5 million (General Fund) in 2006-07. It is likely that these costs have increased even more since this time but 2006-07 is the most recent data. The Office of AIDS can generally identify ADAP clients in County Jails through certain code identifiers used in the state program; however there are a few small County Jails where this is presently not feasible.

There are 36 local County Jails that participate in ADAP. The largest of these include Los Angeles, San Francisco, and San Diego which account for about 68 percent of ADAP jail expenditures. The 36 participating counties are listed in the table below.

Counties with County Jails Accessing the State's Aids Drug Assistance Program (ADAP)

Amador	Mendocino	Solano	Alameda
Butte	Merced	Sonoma	Los Angeles
Calaveras	Monterey	Stanislaus	Marin
Colusa	Napa	San Joaquin	Riverside
El Dorado	Nevada	San Mateo	Orange
Humboldt	Placer	Santa Clara	San Bernardino
Imperial	Santa Barbara	San Diego	Santa Barbara
King	San Benito	San Francisco	Ventura
Lake	Siskiyou	Contra Costa	Yolo

As noted below, existing state statute provides that counties are to be responsible for County Jail inmates as noted, not the state.

Background—Expenses for Support of Prisoners is County Responsibility. Section 29602 of Government Code states that: "Expenses necessarily incurred in the support of persons charged with or convicted of a crime and committed to the County Jail and the maintenance therein and in other county adult detention facilities of a program of rehabilitative services in the fields of training, employment, recreation, and pre-release activities, and for other services in relation to criminal proceedings for which no specific compensation is prescribed by law are county charges. However, nothing in this section shall preclude or prohibit the county from receiving reimbursement from a provider of medical insurance coverage for the provision of medical services to a prisoner or detainee

received by or held in the County Jail or other detention facilities, in those instances where the prisoner or detainee has *private* medical insurance coverage."

Further, Section 4015 of the Penal Code denotes the responsibilities of County Sheriffs regarding food, clothing and minimum standards of care. It does note that costs associated with providing medical care is to be borne by the arrested person's medical insurance or other sources of medical coverage for which the arrested person is eligible (such as County Indigent Health Care).

In addition, as contained in Section 17000 of Welfare and Institutions Code, counties are responsible for indigent health care. County Indigent Health is generally funded with County Realignment Funds and County General Fund, as well as some support from the state (i.e., some state General Fund, Proposition 99 Funds, federal Maternal and Child Health Funds and related areas).

All of the above state law references specifically provide that local health jurisdictions/counties are responsible for inmate care in County Jails.

Background—Federal Ryan White Grant Funds to Locals. The federal government also directly provides federal Ryan White grant funds to local health jurisdictions and to county and community clinics based upon various criteria.

In the current year, a total of $95 million (federal funds) is allocated directly to these various entities for their expenditure. It should be noted that these local funds can be expended on a wide variety of HIV/AIDS services needs, including drugs and medical therapies.

Subcommittee Staff Comment and Recommendation—Savings of $5 million. With the state's fiscal condition, including the Governor's proposed reductions to core state programs such as ADAP, it is only prudent to clarify the role of state and county program relationships.

It is therefore recommended for the Chair to direct the Office of AIDS to report back to the Subcommittee at the May Revision as to how counties may choose to contract with the state to participate in the ADAP and pay for the service. Counties could also choose not to contract with the state and fund ADAP-like services on their own. Funds received from the Counties could be treated as reimbursements to the state ADAP.

Further, the Office of AIDS should also be prepared at the May Revision to provide the Subcommittee with the most recent General Fund amount identified within the ADAP that is being spent on County Jails.

Action from this item could achieve *at least* $5 million in state General Fund savings. It is recommended to hold this issue open pending receipt of additional information as noted.

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions.

1. Office of AIDS, Please briefly explain how County Jails currently access ADAP.

2. Office of AIDS, Please comment on the Subcommittee staff recommendation.

3. Therapeutic Monitoring Program—Governor's Proposed Reduction

Issue. The Governor proposes to reduce the Therapeutic Monitoring Program by $300,000 (General Fund), or 10 percent. This reduction would leave a total of $3.7 million remaining in the program.

The purpose of this program is to provide therapeutic monitoring assays for HIV positive people who cannot otherwise afford them. Priority for funding under the program is to be given to state-funded Early Intervention Program sites. Coverage awards are to be made to counties on the basis of need. Determination of awards is to be made by the Office of AIDS dependant on availability of state funding, including ADAP Drug Rebate funds, and federal funding for the program.

In addition, state statute notes that counties may cover those assays that are deemed necessary and are not covered under this state program.

Specifically, viral load and resistance testing is done to measure the degree to which an individual's HIV has become resistant or less sensitive to anti-retroviral drugs. About 15,000 clients accessing Therapeutic Monitoring Program services are enrolled in ADAP.

Subcommittee Staff Comment and Recommendation. The Therapeutic Monitoring Program is important in order to ensure that ADAP drugs are used in the most efficient manner. However, existing state statute notes that it is dependent on the availability of state funding as noted, or that counties may cover these services if the state does not.

It should be noted that the Office of AIDS could choose to use ADAP Drug Rebate Funds to supplement the Therapeutic Monitoring Program.

In addition counties could use their County Indigent Health Program funds or where available, federal Ryan White grant funds provided to local entities.

At this time it is recommended to leave this item open pending receipt of the Governor's May Revision and an update on the ADAP Drug Rebate Funds.

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions.

1. Office of AIDS, Please provide a *brief* description of the program and the Governor's reduction.

2. Office of AIDS, Can ADAP Drug Rebate Funds be used for this purpose? What about county funds if they choose?

4. Governor's Reductions to All Other Office of AIDS Programs

Issue. As noted in the background section of this Agenda, the Governor proposes a total reduction of $11,022,000 in General Fund support, including the ADAP and Therapeutic Monitoring Program as discussed above. The remaining proposed reductions are shown in the table below and will be discussed collectively for the purpose of public testimony.

Governor's Remaining Reductions Office of AIDS Programs	**Governor's General Fund Reduction 2008-09**	**Total Proposed Funding 2008-09**
HIV/AIDS Education and Prevention	-$1,600,000	$30,412,000 Total ($23,278,000 GF)
Epidemiologic Studies and Surveillance	-$400,000	$10,235,000 Total ($8,651,000 GF)
Early Intervention	-$200,000	$14,382,000 Total ($7,433,000 GF)
Home and Community-Based Care	-$400,000	$11,869,000 Total ($6,327,000 GF)
HIV Counseling and Testing	-$600,000	$9,860,000 Total ($8,225,000 GF)
AIDS Housing	-$122,000	$4,805,000 Total ($1,093,000 GF)
Governor's Reductions to Local Assistance	**-$3,322,000**	
Governor's Reduction to State Support	**-$400,000**	
TOTAL	**-$3,722,000**	

- *HIV/AIDS Education and Prevention (-$1.6 million).* A reduction of $1.6 million (General Fund) is proposed by the Governor. The Office of AIDS states that this reduction would reduce the number of face-to-face prevention contacts with high-risk clients by an estimated 20,000 contacts (currently 400,000 contacts are made annually). In addition, it would decrease access to other targeted programs.

  The HIV/AIDS Education and Prevention Program primarily provides funds to the 61 local health jurisdictions, but also to community-based organizations, service providers and others to develop and implement focused HIV education and prevention programs. The program's primary goals are preventing HIV transmission, changing individual attitudes about HIV and risk behaviors, promoting the development of risk-reduction skills and changing community norms that may sanction unsafe sexual and drug-taking behaviors.

- *Epidemiologic Studies and Surveillance (-$400,000).* A reduction of $400,000 (General Fund) is proposed by the Governor. The Office of AIDS states that they would reduce epidemiologic studies and surveillance work currently conducted to collect and analyze data regarding HIV and AIDS. They note that this information is often used to provide data to the federal government for the receipt of federal Ryan White grant funds. In addition, they state that reduced epidemiologic studies will reduce the program's ability

to ensure that funding is targeted to the correct geographic regions and demographic populations.

Currently, this area provides support for epidemiologic studies and surveillance program activities including:

- ✓ Providing data to guide resource allocation and program strategies for HIV/AIDS education, prevention, care and treatment;
- ✓ Identifying the scope and extent of HIV infection and the needs which it creates and disseminate timely and complete information;
- ✓ Promoting the effective use of available resources through research, planning, coordination, and evaluation; and
- ✓ Maintaining the HIV/AIDS Case Registry, a confidential, central registry of demographic and clinical information on all reported CA HIV infections and AIDS cases.

- *Early Intervention Program (-$200,000)*. A reduction of $200,000 (General Fund) is proposed by the Governor. The Office of AIDS states that this reduction would result in each contract being reduced by $5,600 each.

  The Early Intervention Program (EIP) sites provide HIV medical care and treatment as well as transmission prevention interventions for HIV-infected persons within the context of their clinical care. There are 36 EIP clinics statewide that serve 8,000 clients. The goals of the program are to interrupt the transmission of HIV. In addition to ongoing medical care, periodic client assessments, case conferencing and individual services plans are used to maximize client outcomes.

- *Home and Community-Based Care (-$400,000).* A reduction of $400,000 (General Fund) is proposed by the Governor. The Office of AIDS states that this reduction would reduce the number of HIV/AIDS clients receiving case management services.

  This area provides comprehensive case management and direct care services to over 1,300 persons with AIDS to allow individuals to remain in their homes. Forty-four agencies receive funding to provide case management services.

- *HIV Counseling and Testing (-$600,000).* A reduction of $600,000 (General Fund) is proposed by the Governor. The Office of AIDS states that this reduction would reduce the contracts with Local Health Jurisdictions. Specifically, the reduction would reduce HIV testing by about 8,060 tests annually and opportunities to provide counseling services to HIV positive or high risk individuals.

- *AIDS Housing (-$122,000).* A reduction of $122,000 (General Fund) is proposed by the Governor. The Office of AIDS states that this reduction would reduce funding for the Fresno and Solano Counties Housing Programs and for seventeen sites receiving funds for Residential AIDS Licensing Facilities.

  AIDS housing assists with the stable housing needs of persons living with HIV/AIDS through the development of rental housing projects and long-term affordable housing

units. This program works in conjunction with the federally funded Housing Opportunities for Persons with AIDS Program. The AIDS Housing Program contracts with Fresno and Solano Counties to assist with the stable housing needs of 286 clients and their families.

The Residential AIDS Licensing Facilities Program is designed to address the ongoing operational subsidy of existing facilities for the chronically ill serving clients with HIV disease. Currently, these funds are allocated based on the number of bed nights each facility has available for chronically ill individuals with HIV/AIDS. There are 17 sites in the following areas: Los Angeles, Santa Barbara, San Francisco, Sacramento, Alameda, Riverside, and San Diego. The program serves over 270 clients with 98,550 bed nights per year.

- *Office of AIDS State Support Reduction ($-400,000).* A reduction of $122,000 (General Fund) is proposed by the Governor. The Office of AIDS states that this reduction would reduce a consultant contract with the University of CA system and other general administrative services, such as postage, travel, printing, and related items.

Subcommittee Staff Comment and Recommendation. Due to the fiscal emergency, it is recommended to approve the Governor's proposed reductions for Epidemiologic Studies and Surveillance, and State Support for a total of reduction $800,000 General Fund. These two areas do not directly affect services to individuals living with HIV/AIDS.

In addition, it is recommended to hold open the other program reductions until the May Revision. (A portion of the HIV/AIDS Education and Prevention Program may be restored contingent on action taken later in this Agenda.)

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions.

1. Office of AIDS, Using the table shown on page 14 above, please provide a brief description of the Governor's proposed reduction and the potential effects if enacted.

5. DHCS Medi-Cal Program—HIV/AIDS Pharmacy Pilot Program

Issue. The Department of Health Care Services (DHCS), Medi-Cal Program, is proposing trailer bill legislation and an *augmentation* of $2.7 million (General Fund) to extend a pilot project within the Medi-Cal Program. This pilot project is *not* eligible to received federal funds because it is a pilot and the federal CMS requires a federal Waiver for this purpose.

This pilot project was originally scheduled to end as of January 1, 2008. However through trailer bill legislation accompanying the Budget Act of 2007, the pilot was extended for one more year (to June 30, 2008).

The DHCS is proposing trailer bill legislation to extend this pilot again, through to June 30, 2009, or for one more year. This extension requires an augmentation of $2.7 million (General Fund) to continue it through 2008-09.

Under the pilot project, 10 pharmacies receive a $9.50 dispensing fee for "medical therapy management services" as defined in the enabling legislation. The total number of claims covered under this program from inception through January 1, 2008 (41 months) was 1,053,747 for an *average* annual expenditure of $2.9 million (General Fund).

Background on AB 1367, Statutes of 2004. This legislation required the DHCS to establish an HIV/AIDS Pharmacy Pilot Program to evaluate the effectiveness of pharmacist care in improving health outcomes for people with HIV/AIDS.

Specifically, it required the DHCS to evaluation the provision of community pharmacy based "medication therapy management services" for patients with HIV/AIDS. The pilot required the Medi-Cal Program to reimburse up to 10 HIV/AIDS specialty pharmacies an additional $9.50 per claim for the "medication therapy management services" they provide to HIV/AIDS Medi-Cal enrollees.

The legislation defined "medication therapy management services" as distinct services, which may be delivered independently or in conjunction with medication dispensing, that optimize the therapeutic outcomes achieved by medication usage for individual patients.

Audit Exceptions Identified in the Pilot Program. The two highest volume pharmacies participating in this pilot program were audited by the DHCS' Audits and Investigations Division and were found be have been overpaid. These pharmacies were notified of this fact in December 2007.

The DHCS' Audits and Investigations found that claims from a pharmacy not selected to be part of the AB 1367 pilot were submitted under a participating pilot's Medi-Cal provider number and were paid the additional $9.50 fee. The DHCS has requested repayment from the pharmacies for this overpayment.

Further, the DHCS states that they intend to perform a follow-up audit in order to ensure the integrity of the pilot program.

Legislative Analyst's Office Recommendation—Deny Extending Pilot. The LAO recommends to deny extension of this pilot project and to instead, redirect the $2.7 million (General Fund) augmentation towards backfilling the Governor's reductions proposed within the Office of AIDS for the ADAP Program.

The LAO notes their recommendation is consistent with the Legislature's intent to sunset the program as of June 30, 2008. Further, since the ADAP is such a critical core program, they recommended directing the $2.7 million towards this purpose.

While the LAO recognizes the merits of having pharmacists coordinate HIV/AIDS patient's therapeutic drug regimens, they believe that the provision of direct services is a higher priority than continuing t fund a pilot project beyond the time period. Therefore, the priority for funding should be the ADAP to ensure that drug treatment is provided.

It should be noted that the LAO continues to stand by this February recommendation even with the recent release of the evaluation of the HIV/AIDS Pilot Project (April 8, 2008).

Subcommittee Staff Comment and Recommendation—Adopt LAO Recommendation and Redirect Funds to AIDS Drug Assistance Program (ADAP). First, though this pilot has provided some benefit, it is time to sunset it. The DHCS has now received an evaluation regarding the merits of the program. As such, there could be some components that may be incorporated into the Medi-Cal Pharmacy Program overall, versus operating as a pilot project. Further, the federal CMS will not provide federal matching funds for the pilot. As such, it becomes a state-only funded program within Medi-Cal.

Second, the LAO recognizes the merit of maintaining the core HIV/AIDS programs as operated by the Office of AIDS. Therefore, it is recommended to adopt their proposal.

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions.

1. DHCS, Please provide a brief summary of the HIV/AIDS Pilot Project.
2. DHCS, Please explain the audit exceptions and what has been done to obtain repayment from certain pharmacies.

6. Department of Mental Health —AIDS Counseling Program

Issue. The Governor proposes to reduce this Department of Mental Health Program by $150,000 (General Fund), or by 10 percent. The AIDS Counseling Program is presently funded at $1.5 million (General Fund).

According to the DMH, about 3,186 clients received some form of service through this funding. This translates into an average cost of $471 per person served.

The main purpose of this program is to provide counseling and mental health services to support persons at risk of HIV/AIDS, who are HIV/AIDS positive, and partners and; family members needing mental health services, counseling and support for HIV/AIDS and related concerns. The majority of the funds provide individual, group or family counseling services.

Client services may include: information and referral; individual psychotherapy; couple psychotherapy; crisis counseling; psychosocial rehabilitation and support services; psychotropic medication monitoring; psychiatric assessments; services coordination; case management; and education and training.

Another service of this funding is the publication and distribution of a monthly newsletter called "Focus: A Guide to AIDS Research and Counseling".

According to the DMH, the allocation used to distribute these funds to non-profit and county agencies was done through *a competitive process 19 years ago*. Through this process, the DMH selected 14 entities to fund. *The funding for these 14 entities has not changed since inception of the program.*

Department of Mental Health—AIDS Mental Health Project

Contract Provider	Annual Contract Amount (General Fund)
San Diego Lesbian & Gay Center	$65,114
Hemophilia Council	$300,000
Inland AIDS Project	$34,286
Minority AIDS Project	$34,000
Pacific Center for Human Growth	$27,312
University of San Francisco—AIDS Research	$34,288
Los Angeles County	$376,000
Orange County	$85,714
San Diego County	$85,000
San Francisco County	$264,000
San Joaquin County	$34,286
San Mateo County	$60,000
Santa Barbara County	$25,000
Santa Clara County	$75,000
TOTALS	**$1,500,000**

Subcommittee Staff Comment and Recommendation. This program was established in 1985 when the HIV/AIDS Disease was becoming known and well before the establishment of the Office of AIDS and the expansion of HIV/AIDS education and prevention programs, and other services which are now well established.

The primary focal point of the Department of Mental Health is to administer core programs for individuals with serious mental illnesses such as the Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Program and Mental Health Managed Care Program.

As such, it appears that the DMH's AIDS Counseling Program has not received the policy attention of the department. This is evidenced by the lack of not even doing a competitive bid for the dollars since inception of the program.

Further, the Office of AIDS programs focus limited resources towards core concerns and have been response in changing their programs to respond to the movement of HIV/AIDS across various populations and areas of our state.

Due to the fiscal crisis and limited General Fund resources, it is recommended to eliminate the AIDS Counseling Program operated by the DMH and to shift the remaining $1.350 million (General Fund) of the program (after the Governor's reduction of $150,000) to the Office of AIDS. Specifically this $1.350 million would be used to assist in backfilling the $1.6 million General Fund reduction proposed by the Governor.

Questions. The Subcommittee has requested the Office of AIDS to respond to the following questions.

1. DMH, Please provide a brief summary of the program. Why has this program not conducted a competitive contracting process since inception of the program?

END OF THIS AGENDA. GO TO AGENDA "B".